ᵤ✔

UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/681,607	05/07/2001	Steven P. Wisner	52493.000151	8602

21967   7590   02/14/2005

HUNTON & WILLIAMS LLP
INTELLECTUAL PROPERTY DEPARTMENT
1900 K STREET, N.W.
SUITE 1200
WASHINGTON, DC 20006-1109

EXAMINER
FAROOQ, MOHAMMAD O

ART UNIT	PAPER NUMBER
2182	

DATE MAILED: 02/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

	Application No.	Applicant(s)
Office Action Summary	09/681,607	WISNER ET AL.
	Examiner	Art Unit	
	Mohammad O. Farooq	2182	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on _08 September 2004_.

2a) ☐ This action is **FINAL**.   2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) _1-23_ is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) _1-5,8-13 and 16-23_ is/are rejected.

7) ☒ Claim(s) _6,7,14 and 15_ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☒ The drawing(s) filed on _07 May 2001_ is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a) ☐ All b) ☐ Some * c) ☐ None of:

      1. ☐ Certified copies of the priority documents have been received.

      2. ☐ Certified copies of the priority documents have been received in Application No. _____.

      3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
    Paper No(s)/Mail Date _7/17/01; 10/22/02_.

4) ☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

1.   Claims 1-4, 9-13, 17 and 18 are rejected under 35 U.S.C. 102(e) as being

anticipated by Chung et al. U.S. Pat. No. 6,266,781.

2.   As to claim 1, Chung et al. teach system, comprising:

a first data center for providing the network service at a first geographic location

(item A1; fig. 1), including:

first active resources configured for active use (item A1, fig. 1);

first standby resources configured for standby use in the event that active

resources cannot be obtained from another source (item C2, fig. 1);

first logic for managing access to resources (item 113-1; fig. 1);

a second data center for providing the network service at a second geographic

location including (item C1, fig. 1):

second active resources configured for active use (item C1, fig. 1);

second standby resources configured for standby use in the event that active resources cannot be obtained from another source (item A2, fig. 1);

second logic for managing access to resources (item 113-3; fig. 1);

wherein the first active resources (i.e. A1, fig. 1) include the same resources as the second standby resources (i.e. A2, fig. 1), and wherein the first standby resources (i.e. C2; fig. 1) include the same resources as the second active resources (i.e. C1; fig. 1),

and wherein the first logic is configured to: assess a needed resource for use by a user coupled to the first data center (see fig. 1); determined whether the needed resource is contained within the first active resources or the first standby resources of the first data center (col. 5, line 21 – col. 6, line 30; col. 7, line 35 – col. 8, line 17); provide the needed resource from the first active resources if the needed resource is contained therein; provide the needed resource from the second active resources of the second data center if the needed resource is contained within the standby resources of the first data center (col. 5, line 21 – col. 6, line 30; col. 7, line 35 – col. 8, line 17); and

wherein, the second logic is configured to: assess a needed resource for use by a user coupled to the second data center (see fig. 1); determined whether the needed resource is contained with the second active resources or the second standby resources of the second data center (col. 5, line 21 – col. 6, line 30; col. 7, line 35 – col. 8, line 17); provide the needed resource from the second active resources if the needed resource is contained therein (col. 5, line 21 – col. 6, line 30; col. 7, line 35 – col. 8, line 17); and provide the needed resource from the first active resources of the first data center if the needed resource is contained within the second standby resources of the second data center (col. 5, line 21 – col. 6, line 30; col. 7, line 35 – col. 8, line 17).

3.   As to claim 2, Chung et al. teach system, wherein:

the first logic is further configured to: assess whether the first active resources have become disabled; and, in response thereto, route a request for a needed resource to the second data center (i.e. backup becomes primary; col. 5, line 57 – col. 6, line 9), and

the second logic is further configured to: assess whether the second active resources have become disabled; and, in response thereto, route a request for a needed resource to the first data center (i.e. backup becomes primary; col. 5, line 57 – col. 6, line 9).

4.   As to claim 3, Chung et al. teach a distributor module for distributing a user's

request for network services to at least the first or second data centers (i.e. watchdog

and/or superwatchdog; see items 113 and 115).

5.   As to claim 4, Chung et al. teach system, wherein the distributor module further

includes:

        logic for receiving information regarding a failure of the first data center

(inherent), and for transferring subsequent requests for resources to the second data

center (col. 5, line 57 – col. 6, line 30), and

        logic for receiving information regarding a failure of the second data center

(inherent), and for transferring subsequent requests for resources to the first data center

(col. 5, line 57 – col. 6, line 30).

6.   As to claim 9, Chung et al. teach system, wherein includes a inter-center routing

network that couples the first and second data centers (inherent in fig. 1).

7.   As to claim 10, Chung et al. teach system, wherein:

        the first logic is configured to route requests to the second active resources of the

second data center via the inter-center routing network (see fig. 1), and

        the second logic is configured to route requests to the first active resources of the

first data center via the inter-center routing network (see fig. 1).

8.   As to claim 11, Chung et al. teach method, comprising:

in a system including first and second data centers located and first and second

geographic locations (see fig. 1), respectively, coupling a user to the first data center,

wherein:

the first data center includes first active resources configured for active use (A1,

fig. 1); and first standby resources configured for standby use in the event that active

resources cannot be obtained from another source (C2, fig. 1);

the second data center includes second active resources configured for active

use (C1, fig. 1); and second standby resources configured for standby use in the event

that active resources cannot be obtained from another source (A2, fig. 1);

assessing a resource needed by the user, defining a needed resource;

determining whether the needed source is contained with the first active

resources or the first standby resources of the first data center (col. 5, line 21 – col. 6,

line 30; col. 7, line 35 – col. 8, line 17);

providing the needed resource from the first active resources if the needed

resource is contained therein (col. 5, line 21 – col. 6, line 30; col. 7, line 35 – col. 8, line

17); and

providing the needed resource from the second active resources of the second

data center if the needed resource is contained within the standby resources of the first

data center (col. 5, line 21 – col. 6, line 30; col. 7, line 35 – col. 8, line 17),

wherein the first active resources include the same resources as the second

standby resources, and wherein the first standby resources include the same resources

as the second active resources (col. 5, line 21 – col. 6, line 30; col. 7, line 35 – col. 8,

line 17).

9.   Claims 12,13, 17 and 18 are method claims of apparatus claims 2, 9 and 10.

Chung et al. teach apparatus as set forth in claims 2, 9 and 10. Therefore, Chung et al.

also teach method as set forth in claims 12, 13, 17 and 18.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

10.   Claims 5,8,16 and 19-23 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Chung et al. U.S. Pat. No. 6,266,781 in view of Bakshi et al. U.S. Pat.

No. 6,742,051.

11.   As to claim 5, Chung et al. teach first data center and second data centers (parts

of item 100, fig. 1).

Chung et al. do not teach database, network access tier and application tier.

Bakshi et al. teach database, network access tier and application tier (fig. 3; col. 3, line

65 – col. 4, line 11). However, it would have been obvious to one of ordinary skill in the

art at the time of invention to combine the teachings of Chung et al. and Bakshi et al.

because that would provide interface between software and hardware (abstract).

12.   As to claims 8 and 16, Chung et al. do not teach wide area network couples at

least one user to the first data center or the second data center. Bakshi et al. teach

wide area network couples at least one user to the first data center or the second data

center (inheret because of web; col. 3, line 65 – col. 4, line 32).

13.   As to claim 19, Chung et al. teach system, comprising:

a first data center for providing the network service at a first geographic location

(item A1; fig. 1), including:

first active resources configured for active use (item A1, fig. 1);

first standby resources configured for standby use in the event that active

resources cannot be obtained from another source (item C2, fig. 1);

a second data center for providing the network service at a second geographic

location including (item C1, fig. 1):

second active resources configured for active use (item C1, fig. 1);

second standby resources configured for standby use in the event that active

resources cannot be obtained from another source (item A2, fig. 1);

wherein the first active resources (i.e. A1, fig. 1) include the same resources as

the second standby resources (i.e. A2, fig. 1), and wherein the first standby resources

(i.e. C2; fig. 1) include the same resources as the second active resources (i.e. C1; fig.

1),

and wherein the first data center is configured to: assess a needed resource for

use by a user coupled to the first data center (see fig. 1); determined whether the

needed resource is contained within the first active resources or the first standby

resources of the first data center (col. 5, line 21 – col. 6, line 30; col. 7, line 35 – col. 8,

line 17); provide the needed resource from the first active resources if the needed

resource is contained therein; provide the needed resource from the second active

resources of the second data center if the needed resource is contained within the

standby resources of the first data center (col. 5, line 21 – col. 6, line 30; col. 7, line 35 –

col. 8, line 17); and

wherein, the second data center is configured to: assess a needed resource for use by a user coupled to the second data center (see fig. 1); determined whether the needed resource is contained with the second active resources or the second standby resources of the second data center (col. 5, line 21 – col. 6, line 30; col. 7, line 35 – col. 8, line 17); provide the needed resource from the second active resources if the needed resource is contained therein (col. 5, line 21 – col. 6, line 30; col. 7, line 35 – col. 8, line 17); and provide the needed resource from the first active resources of the first data center if the needed resource is contained within the second standby resources of the second data center (col. 5, line 21 – col. 6, line 30; col. 7, line 35 – col. 8, line 17).

Chung et al. do not teach database, network access tier (i.e. wide area network) and application tier. Bakshi et al. teach database, network access tier (i.e. wide area network) and application tier (fig. 3; col. 3, line 65 – col. 4, line 11). However, it would have been obvious to one of ordinary skill in the art at the time of invention to combine the teachings of Chung et al. and Bakshi et al. because that would provide interface between software and hardware (abstract)

14.   As to claim 20, Chung et al. teach system, wherein:

the first data center is further configured to: assess whether the first active

resources have become disabled; and, in response thereto, route a request for a

needed resource to the second data center (i.e. backup becomes primary; col. 5, line 57

– col. 6, line 9), and

the second data center is further configured to: assess whether the second active

resources have become disabled; and, in response thereto, route a request for a

needed resource to the first data center (i.e. backup becomes primary; col. 5, line 57 –

col. 6, line 9).

15.   As to claim 21, Chung et al. teach system, wherein includes an inter-center

routing network that couples the first and second data centers (inherent in fig. 1).

16.   As to claim 22, Chung et al. teach method, comprising:

a first (A1, fig. 1) and second (C1, fig. 1) data centers located and first and

second geographic locations, respectively, wherein:

first data center includes: first active resources configured for active use (item

A1, fig. 1); and first standby resources configured for standby use in the event that

active resources cannot be obtained from another source (item C2, fig. 1); the second

data center includes: second active resources configured for active use (item C1, fig. 1);

second standby resources configured for standby use in the event that active resources

cannot be obtained from another source (item A2, fig. 1);

assessing a resource needed by the user, defining a needed resource (see fig. 1); determined whether the needed resource is contained within the first active resources or the first standby resources of the first data center (col. 5, line 21 – col. 6, line 30; col. 7, line 35 – col. 8, line 17); providing the needed resource from the first active resources if the needed resource is contained therein;

performing steps (a) and (b) if the needed resource is contained in the first standby resources:

(a) routing a request for the needed resource to the second data center via an inter-center network (col. 5, line 21 – col. 6, line 30; col. 7, line 35 – col. 8, line 17);

(b) providing the needed resource from the second active resources of the second data center (col. 5, line 21 – col. 6, line 30; col. 7, line 35 – col. 8, line 17);

wherein the first active resources (i.e. A1, fig. 1) include the same resources as the second standby resources (i.e. A2, fig. 1), and wherein the first standby resources (i.e. C2; fig. 1) include the same resources as the second active resources (i.e. C1; fig. 1).

Chung et al. do not teach wide area network. Bakshi et al. teach wide area network (i.e. network access tier; fig. 3; col. 3, line 65 – col. 4, line 11). However, it would have been obvious to one of ordinary skill in the art at the time of invention to combine the teachings of Chung et al. and Bakshi et al. because that would provide interface between software and hardware (abstract).

17.   As to claim 23, Chung et al. teach system, wherein:

the first logic is further configured to: assess whether the first active resources

have become disabled; and, in response thereto, route a request for a needed resource

to the second data center (i.e. backup becomes primary; col. 5, line 57 – col. 6, line 9),

Allowable Subject Matter

18.   Claims 6,7, 14 and 15 are objected to as being dependent upon a rejected base

claim, but would be allowable if rewritten in independent form including all of the

limitations of the base claim and any intervening claims.

19.   Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Mohammad O. Farooq whose telephone number is

(571) 272-4144. The examiner can normally be reached on 9:00am - 5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Jeffrey A. Gaffin can be reached on (571) 272-4146. The fax phone number

for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free).

JEFFREY GAFFIN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100

Mohammad O. Farooq
February 7, 2005